

Office of Chief Counsel  
Internal Revenue Service

**memorandum**

CC:LM:RFPH:CHI:2:TL-N-7359-98  
WTDerick

date: September 6, 2001

to: Robert Maio  
Acting Team Manager, LMSB:CTM:1351

from: Associate Area Counsel (LMSB), Chicago

subject: [REDACTED]

Consent to Extend the Period of Limitations Under § 6229(f)

This memorandum responds to your request for assistance dated August 7, 2001. This memorandum should not be cited as precedent.

DISCLOSURE STATEMENT

This memorandum may contain privileged information. Any unauthorized disclosure of this memorandum may have an adverse effect on privileges, such as the attorney-client privilege. If disclosure becomes necessary, please contact this office for our views.

FACTS AND QUESTION

[REDACTED] was a partner in a TEFRA partnership, and regarding certain partnership items for that TEFRA partnership, [REDACTED] and the Secretary signed a closing agreement. Your question is whether [REDACTED] and the Secretary extended the one-year period of limitations under § 6229(f) by signing consents on Form 872 with one of the following provisions:

Without otherwise limiting the applicability of this agreement, this agreement is also applicable to extend the period of limitations on assessment of any tax (including penalties and interest) attributable to: any partnership items (See Section 6231(a)(3)); affected items (See Section 6231(a)(5)); computational adjustments (See Section 6231(a)(6)); and partnership items converted to non-partnership items pursuant [to] Section 6231(b) and (c). [the provision the team used

before 2001, with emphasis added]

With regard to interests held in entities that are subject to the TEFRA unified audit and litigation procedures, and without limiting the applicability of this agreement, this agreement also extends the period of limitations for assessing any tax (including additions to tax and interest) attributable to any partnership items, affected items, computational adjustments, and partnership items converted to nonpartnership items. This agreement extends the period for filing a request for administrative adjustment and the period [for] filing a petition regarding such a request. For partnership items that have converted to nonpartnership items, this agreement extends the period for filing a suit for refund or credit. In accordance with paragraph 1 above, any assessment attributable to a partnership shall not terminate this agreement for other partnerships or for items not attributable to a partnership. Similarly, an assessment not attributable to a partnership shall not terminate this agreement for items attributable to a partnership. [the provision the team has used after 2000, with emphasis added]

#### CONCLUSION

The answer is yes. By signing consents on Form 872 with one of the above provisions, [REDACTED] and the Secretary extended the one-year period of limitations under § 6229(f). In the future, however, please use Form 872-I to extend the period of limitations because that form includes the appropriate language.

#### DISCUSSION

The general rule is that the period for assessing any tax attributable to partnership items or affected items for any partner will not expire before three years from the later of (1) the due date of the partnership's return or (2) the date the partnership's return is filed. I.R.C. § 6229(a). A special rule applies once partnership items convert to nonpartnership items. I.R.C. § 6229(f)(1). Partnership items will convert to nonpartnership items for a particular partner when, among other things, the Secretary and a partner enter into a settlement agreement, such as a closing agreement. I.R.C. §§ 6231(b)(1)(C) and 6224(c)(1).

In the case of a conversion, the period for assessing any tax will not expire before one year after the date on which the partnership items become nonpartnership items. I.R.C. § 6229(f)(1). For partnership items that are settled by means of a partial settlement agreement, the one-year period of limitations will begin to run when the last of the partnership items is resolved. I.R.C. § 6229(f)(2). This one-year period may be extended by agreement entered into between the Secretary and a partner. I.R.C. § 6229(f)(1). In this case, and as stated above, the one-year period of limitations under § 6229(f) was extended with the consents signed by [REDACTED] and the Secretary because each consent contained an adequate provision regarding partnership items converting to nonpartnership items.

For coordination purposes, a copy of this memorandum is being sent to Alice Harbutte, Industry Counsel (TEFRA). For questions regarding this memorandum, please contact William Derick at (312) 886-9225 extension 318.

Associate Area Counsel (LMSB), Chicago

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